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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,628	01/13/2004	Brian T. Leonard	455/1/001	2463

7590

01/03/2005

Richard M. Goldberg  
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EXAMINER
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KHAIRA, NAVNEET K

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 01/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/756,628

Applicant(s)

LEONARD ET AL.

Examiner

Navneet Sonia Khaira

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 9, 15, 17-19 is/are rejected.
- 7) ☒ Claim(s) 7 and 16 is/are objected to.
- 8) ☒ Claim(s) 10-14 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. This application contains claims directed to the following patentably distinct species and of the claimed invention:

Species 1 – Figures 1

Species 2 – Figures 10

Species 3 – Figures 17

Species 4 – Figures 20

Species 5 – Figures 21

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Richard M. Goldberg on December 7, 2004 a provisional election was made without traverse to prosecute the invention of Species 2 & 3- figures 10 & 17, claims 1-9 and 15-19. Affirmation of this election must be made by applicant in replying to this Office action. Claims 10-14 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Election was made **without** traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1-6,8,9,15,17-19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Poe (US 4,901,765) in view of Johnson (4,505,407).

Referring to claim 1, Poe shows a soap dispenser system (Fig 1) comprising a suction tube (36) including: a bore for supplying water from a water line pipe (16) to a shower head (18), and a soap supply bore intersecting the bore (Fig 2) in order to provide soap from the soap dispenser (12) to the suction tube (36) by means of suction created by the water traveling through the main through bore of the suction tube substantially according to claim 1, but does not show the an outer tube movably mounted over the inner tube and connected with the container, the outer tube having an inlet adapted to be fluidly connected with soap from the container (12) and an outlet adapted to be fluidly connected with the inlet of the inner tube, a biasing device for applying pressure between the inner tube and the outer tube in a direction to move the inner tube and outer tube apart, a valve for permitting soap to enter the inlet of the inner tube when the outer tube is moved toward the inner tube against the force of the biasing device and which prevents soap from entering the inlet of the inner tube when the outer tube is moved away from the inner tube by the biasing device according to the claim 1.

Johnson teaches to provide a an outer tube (17) movably mounted over the inner tube (20) and connected with the container (10), the outer tube (17) having an inlet (15) adapted to be fluidly connected with soap (Col. 3, lines 10-12) from the container (10) and an outlet (14) adapted to be fluidly connected with the inlet of the inner tube (20),

a biasing device (16) for applying pressure between the inner tube (20) and the outer tube (17) in a direction to move the inner tube (20) and outer tube apart (17), a valve for permitting soap to enter the inlet of the inner tube (20) when the outer tube (17) is moved toward the inner tube against the force of the biasing device (16) and which prevents soap from entering the inlet of the inner tube (20) when the outer tube (17) is moved away from the inner tube (20) by the biasing device (16, Col. 3, lines 15-26) in order to prevent the tube from admitting material into the tube.

It would have been obvious to one having ordinary skill in the art to have included the inner and outer tubes of Johnson in the soap dispensing system of Poe in order to regulate material from being dispensed as taught by Johnson.

Regarding claim 2, Poe shows a soap dispensing system substantially according to claim 2, but does not show the discloses the valve includes a member which covers the inlet of the inner tube when the biasing device moves the inner tube and the outer tube apart and which uncovers the inlet of the inner tube when the outer tube is moved toward the inner tube against the force of the biasing device according to the claim. Johnson teaches to provide a valve that includes a member which covers the inlet of the inner tube (Fig 1) when the biasing device (16) moves the inner tube and the outer tube

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(17) apart and which uncovers the inlet of the inner tube (20) when the outer tube (17) is moved toward the inner tube (20) against the force of the biasing device (16) according to the claim in order to limit tube travel.

It would have been obvious to one having ordinary skill in the art to have included the valve that includes a member which covers the inlet of the inner tube (Fig 1) when the biasing device (16) moves the inner tube and the outer tube (17) apart and which uncovers the inlet of the inner tube (20) when the outer tube (17) is moved toward the inner tube (20) against the force of the biasing device (16) of Johnson in the soap dispenser system of Poe in order to limit tube travel as taught by Johnson.

Referring to claim 3, Poe shows a soap dispensing system substantially according to claim 3, but does not show the member of the valve includes an inner wall which covers and uncovers the inlet of the inner tube (20) and an outer wall connected with the inner wall and which engages with the outer tube for moving the inner wall relative to the inner tube to cover and uncover the inlet of the inner tube according to the claim. Johnson teaches to provide a member of the valve that includes an inner wall which covers and uncovers the inlet of the inner tube (20) and an outer wall connected with the inner wall and which engages with the outer tube for moving the inner wall relative to the inner tube to cover and uncover the inlet of the inner tube (Fig 1) in order to regulate the flow of soap into the inner tube.

It would have been obvious to one having ordinary skill in the art to have included the member of the valve includes an inner wall which covers and uncovers the inlet of

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the inner tube and an outer wall connected with the inner wall and which engages with the outer tube for moving the inner wall relative to the inner tube to cover and uncover the inlet of the inner tube of Johnson in the soap dispenser of Poe in order to regulate the flow of soap into the inner tube as taught by Johnson.

Referring to claim 4, Poe shows a soap dispensing system substantially according to claim 4, but does not show the soap dispenser where the inner tube includes a first and second position stopper according to the claim. Johnson teaches to provide a soap dispenser where the inner tube contains a slot (23) used to limit movement from the first and second positions with use of a fitting mechanism (21, Fig 1) in order to support tube in its upward and downward travel path.

It would have been obvious to one having ordinary skill in the art to have included the inner tube in the soap dispenser with a first and second position stopper of Johnson in the soap dispensing system of Poe in order to support tube in its upward and downward travel path as taught by Johnson.

Referring to claim 5, Poe shows a soap dispensing system substantially according to claim 5, but does not show the outer wall of the soap dispenser in frictional engagement with the outer tube according to the claim. Johnson teaches to provide an outer wall of the soap dispenser in frictional engagement with the outer tube in order to allow for a close fit of the inner and outer tubes.



It would have been obvious to one having ordinary skill in the art to have included the outer wall of the inner tube in frictional engagement with the outer tube of Johnson in the soap dispensing system (Fig 1) of Poe in order to allow for a close fit of the inner and outer tubes as taught by Johnson.

Referring to claim 6, Poe shows a soap dispensing system substantially according to claim 2, but does not show a biasing device includes a coil spring connected between the inner tube and the outer tube according to the claim 2. Johnson further teaches to provide a biasing device including a coil spring connected between the inner tube and the outer tube in order to limit tube upward travel.

It would have been obvious to one having ordinary skill in the art to have included a biasing device including a coil spring (16) connected between the inner tube (20) and the outer tube (17) in the soap dispenser of Poe in order to limit tube upward travel as taught by Johnson

Referring to claim 8, Poe further discloses the tube (36) is secured to a neck of the container (12, Fig 3).

Referring to claim 9, Poe further discloses the suction tube is a venturi suction tube having a main through bore (Col. 3, lines 11-15)

Referring to claim 15, Poe further discloses a soap supply (12) bore is fluidly connected to the main through bore (Fig 2 and 3).

Referring to claim 17, Poe further discloses a soap dispenser that includes a cup (61) adapted to be mounted to a wall of a shower, connected with the supply tube (36), and in fluid communication with the spout (Fig 3).

Referring to claim 18 and 19, Poe further discloses a cup (61) includes a bottom wall and an internal boss connected with the bottom wall for mounting the container in spaced relation from the bottom wall and having at least one opening (Fig 1 and Fig 3).

#### ***Allowable Subject Matter***

4. Claims 7,16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Citation of Related Prior Art***

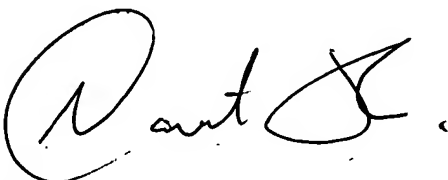
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sendowski et al (US 6,808,149) also disclosed a hands-free wall mounted bottle holder. Copeland et al (US 6,209,184), Lewis et al (US 6,575,335), and Borchers (6,082,593) references also disclosed soap dispensing systems.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet Sonia Khaira whose telephone number is 571-272-7142. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mar Y. Michael can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
NK

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